

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

CUSTOM HARDWARE ENGINEERING  
& CONSULTING, INC.,

Plaintiff/Counterclaim-Defendant,

VS.

JONATHAN D. DOWELL, *et al.*,

### Defendants/Counterclaim-Plaintiffs.

Case No. 4:10CV000653 ERW

## MEMORANDUM AND ORDER

This matter comes before the Court on “Defendants/Counterclaim-Plaintiffs’ (“Defendants”) Motion to Enforce This Court’s March 25, 2011 Order” [ECF No. 277].

Defendants request relief under Federal Rule of Civil Procedure 37(b), asking this Court to enforce its March 25, 2011 Memorandum and Order [ECF No. 176] by entering an Order mandating complete compliance with its directives. Defendants assert that they obtained a previously unproduced settlement agreement between Custom Hardware Engineering & Consulting, Inc., (“CHE”) and third parties, which specifically mentions E-PET, and explicitly references four other documents that “likely reference E-PET as well as two CHE customers serviced by IMB that likely involve E-PET.” They argue that the fact that Plaintiff has not fully complied with the March 25, 2011 Order leads them to reasonably believe that Plaintiff has other unproduced documents that mention E-PET.

In its Response, Plaintiff asserts that it fully complied with the Order and provided all requested contracts for *in camera* inspection, that the settlement agreement was confidential and completely immaterial to the issues in this litigation, that Defendants' discovery attempts are nothing more than an attempt to obtain CHE's proprietary information and trade secrets under

the auspices of discovery, and that Defendants' unauthorized possession of the settlement agreement evidences they are unlawfully harboring CHE proprietary information [ECF No. 282].

This Court will grant Defendants' motion in part, and will order the production of all settlement agreements between Custom Hardware Engineering & Consulting, Inc. and all third parties that mention E-PET, and the production of all contracts or writings between the parties and with third parties, and between Plaintiff and third parties, not previously produced, that mention, in any respect, E-PET, to this Court for *in camera* review. In all other respects, Defendants' motion will be denied.

Accordingly,

**IT IS HEREBY ORDERED** that Defendants/Counterclaim-Plaintiffs' Motion to Enforce This Court's March 25, 2011 Order [ECF No. 277] is **GRANTED in part and DENIED in part**. No later than 4:00 p.m., October 29, 2012, Plaintiffs shall produce all settlement agreements between Custom Hardware Engineering & Consulting, Inc. and all third parties that mention E-PET, and produce all contracts or writings between the parties and with third parties, and between Plaintiff and third parties, not previously produced, that mention, in any respect, E-PET, to this Court for *in camera* review.

Dated this 26th day of October, 2012.



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E. RICHARD WEBBER  
SENIOR UNITED STATES DISTRICT JUDGE